

Senate Bill No. 1729

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 24, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 22940 of, to amend, renumber and add Section 22942 of, to add Sections 22941, 22944.5, and 22944.7 to, and to repeal and add Section 22944 of, the Government Code, relating to public employees' benefits.

LEGISLATIVE COUNSEL'S DIGEST

SB 1729, Soto. Public employees: benefits.

The Public Employees' Medical and Hospital Care Act permits an employer to elect to participate in the prefunding of health care coverage for annuitants. Under that law, if an employer elects to participate in the prefunding of health care coverage for annuitants, the Board of Administration of the Public Employees' Retirement System determines the contribution rate for that employer. That law requires the board of administration to notify each employer that provides retirement benefits through the Public Employees' Retirement System of that employer's contribution rate, regardless of whether that employer participates in the prefunding of health care coverage.

This bill would revise and recast those provisions to permit the Board of Administration of the Public Employees' Retirement System to authorize an employer to participate in the prefunding of health care coverage and other postemployment benefits for annuitants. The bill would require a participating employer to contract with the board of administration regarding specified terms and conditions of the prefunding of health care coverage and other postemployment benefits. The bill would require, if the board of administration terminates the prefunding plan or an employer's participation in that plan, that the board of administration retain sufficient funds to pay for health care coverage and other postemployment benefits for annuitants and administrative costs before paying any remaining assets to the employer.

The people of the State of California do enact as follows:

SECTION 1. Section 22940 of the Government Code is amended to read:

22940. There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage and other postemployment benefits for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

SEC. 2. Section 22941 is added to the Government Code, to read:

22941. Each participating employer shall pay an amount, determined by the board, for administrative costs of the prefunding plan established by this article. The board shall deposit in the State Treasury to the credit of the Annuitants' Health Care Coverage Fund all amounts received by the board for those administrative costs.

SEC. 3. Section 22942 of the Government Code is amended and renumbered to read:

22943. An employer authorized by the board may elect to participate in the prefunding plan established by this article.

SEC. 4. Section 22942 is added to the Government Code, to read:

22942. For purposes of this article, the following definitions shall apply:

(a) "Annuitant" means any of the following:

(1) An annuitant described in Section 22760.

(2) A person who retires from employment with an employer described in paragraph (2) of subdivision (c) and who receives postemployment health care benefits or other postemployment benefits from the prefunding plan provided by that employer.

(3) A surviving family member who receives postemployment health care benefits or other postemployment benefits as a beneficiary of a deceased person described in paragraph (2).

(b) “Employee” means an employee described in Section 22772. “Employee” also means an officer or employee of an employer described in paragraph (2) of subdivision (c).

(c) “Employer” means either of the following:

(1) An employer described in Section 22773.

(2) An entity described in Section 22920 that has one or more employees and that entity provides postemployment health care benefits or other postemployment benefits to annuitants.

(d) “Other postemployment benefits” means other postemployment benefits as defined in Statements 43 and 45 of the Government Accounting Standards Board.

(e) “Participating employer” means an employer that is authorized and has elected to participate in the prefunding plan.

(f) “Prefunding plan” means the Annuitants’ Health Care Coverage Fund that is a trust fund authorized to administer other postemployment benefits plans and that is intended to meet the requirements of Section 115 of the Internal Revenue Code.

SEC. 5. Section 22944 of the Government Code is repealed.

SEC. 6. Section 22944 is added to the Government Code, to read:

22944. The board may, in its discretion and upon terms and conditions set by the board, authorize an employer to participate in the prefunding plan established by this article. The governing body of a participating employer shall enter into a contract with the board, setting forth the terms and conditions of that employer’s participation in the prefunding plan, including, but not limited to, funding, expenditures, and actuarial, accounting, reporting, and investment considerations.

SEC. 7. Section 22944.5 is added to the Government Code, to read:

22944.5. (a) The board may terminate the participation of an employer in the prefunding plan if any of the following apply:

(1) An employer elects to cease to participate in the prefunding plan.

(2) The board finds that the participating employer has failed to satisfy the terms and conditions required by this article, by

board rules or regulations, or by the contract between the governing body of that participating employer and the board.

(3) The board terminates the prefunding plan.

(4) The board may, in its discretion, authorize an employer to transfer assets into or out of the prefunding plan. That transfer of assets shall comply with all of the following:

(A) The transfer shall satisfy the terms of the contract between the employer and the board.

(B) The transfer shall satisfy the requirements under the applicable rules of the Governmental Accounting Standards Board.

(C) The transfer shall satisfy the requirements of Section 115 of the Internal Revenue Code.

(b) If the board terminates the participation of an employer in the prefunding plan as described in paragraph (1) or (2) of subdivision (a), the assets attributable to the contributions by that employer shall remain in the prefunding plan, for the continued payment of postemployment health care benefits or other postemployment benefits granted to current and future annuitants and the costs of administration, pursuant to the terms and conditions of participation established by the board and as agreed to by the employer.

(c) If the board terminates the prefunding plan as described in paragraph (3) of subdivision (a), the assets attributable to the contributions by participating employers shall be paid in the following order:

(1) The board shall retain for disbursement to annuitants an amount sufficient to pay the postemployment health care benefits and other postemployment benefits for current and future annuitants.

(2) The board shall retain for payment an amount sufficient to pay reasonable administrative costs.

(3) After the amounts described in paragraphs (1) and (2) have been retained or disbursed, the board shall pay to each employer participating in the prefunding plan on the date of termination, a pro rata share of the remaining assets in the prefunding plan. The board shall determine that pro rata share based on the ratio that the participating employer's accumulated contributions bear to the accumulated contributions of all participating employers.

SEC. 8. Section 22944.7 is added to the Government Code, to read:

22944.7. The board may adopt emergency regulations that implement this article. Those regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. For purposes of Section 11346.1 and 11349.6, the Office of Administrative Law shall deem the emergency regulations adopted by the board necessary for the immediate preservation of the public peace, health and safety or general welfare.

Approved _____, 2006

Governor